

Message Text

UNCLASSIFIED

PAGE 01 THE HA 01904 171204Z

53

ACTION COME-00

INFO OCT-01 EUR-25 ISO-00 AID-20 CEA-02 CIAE-00 EB-11

FRB-02 INR-10 NSAE-00 RSC-01 CIEP-02 SP-03 STR-08

TRSE-00 LAB-06 SIL-01 SAM-01 OMB-01 TAR-02 DRC-01

/097 W

----- 092306

R 171116Z APR 74

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 3377

INFO USMISSION EC BRUSSELS

AMEMBASSY BRUSSELS

UNCLAS THE HAGUE 1904

STATE PASS COMMERCE

E.OM 11652: N/A

TAGS: BEXP, NL

SUBJECT: AMERICAN HOIST AND DERRICK CO. TARIFF CLASSIFICATION
PROBLEM

REF: THE HAGUE A-182 OF SEPT. 14, 1973 AND PREVIOUS

SUMMARY

EMBOFF RECENTLY ATTENDED MEETING BETWEEN AMERICAN HOISTS DUTCH REP
DOORNBOS AND FIRMS LAWYER. PURPOSE OF MEETING, WHICH WAS CALLED
BY DOORNBOS, WAS TO DETERMINE FROM LAWYER WHETHER FURTHER LEGAL
ACTION IN TARIFF CASE ADVISABLE. DIRECTOR OF DOORNBOS SEEMED
BENT ON PURSUING MATTER FURTHER DESPITE LETTER HE HAD RECEIVED
FROM AMERICAN HOIST OPPOSING ANY ACTION TO BRING CASE TO ATTENTION
EC AUTHORITIES. AMERICAN HOIST APPARENTLY IS CONCERNED THAT IF EC
WERE INFORMED OF DUTCH DECISION, COMMISSION MIGHT ACT TO CLOSE
OFF FEW REMAINING EC PORTS WHERE CRAWLER LIFTING CRANES ARE STILL
ADMITTED UNDER LOWER TARIFF RATE. DOORNBOS SAID HE PLANNED
TO TAKE MATTER UP DURING COMING VISIT TO AMERICAN HOIST IN ST. PAU),
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 THE HA 01904 171204Z

MINNESOTA. EMBASSY HAS HAD NO FEEDBACK ON ITS A-182 AND EARLIER

MESSAGES ON THIS CASE AND WOULD APPRECIATE STATUS REPORT.
END SUMMARY

1. AT REQUEST OF AMERICAN HOIST'S DUTCH REP DOORNBOS, EMBOFF ATTENDED MEETING MAY 7 IN THE HAGUE BETWEEN DOORNBOS TOP MANAGEMENT AND DOORNBOS COMPANY LAWYER. REASON FOR MEETING WAS DESIRE OF DIRECTOR OF FIRM, J.F. DOORNBOS, WHO PLANNING TO VISIT AMERICAN HOIST IN ST. PAUL, MINN, IN NEAR FUTURE, TO DETERMINE FROM LAWYER WHETHER FURTHER ACTION IN CASE ADVISABLE.

2. MR. DOORNBOS TOOK POSITION IN MEETING THAT HE PREFERRED TO REACTIVATE CASE IN HOPE THAT THIS WOULD FORCE DUTCH CUSTOMS TO TREAT ALL NON EC CRANE IMPORTERS EQUALLY, EVEN IF THIS MIGHT BE THE HIGHER TARIFF RATE. AT PRESENT DOORNBOS CONSIDERS THAT HIS FIRM IS BEING MISTREATED BY DUTCH AUTHORITIES SINCE HE ALLEGES THAT HIS FIRM HAS BEEN SINGLED OUT ON QUESTION OF HIGHER TARIFF ON CRAWLER LIFTING CRANES. LAWYER ADVISED THAT IF THIS COURSE HE WISHED TO TAKE, THEN BEST MEANS FOR PURSUING MATTER WOULD BE BY CREATING NEW TEST CASE, I.E. BY IMPORTING A CRAWLER LIFTING CRANE THROUGH ROTTERDAM IN EXPECTATION THAT IT WOULD BE CLASSIFIED UNDER 84.23 A, I (HIGHER TARIFF) AND THEN CONTESTING CLASSIFICATION ALL THE WAY BACK THROUGH NETHERLANDS TARIFF COMMISSION. TARIFF COMMISSION DECISION, IF ADVERSE, COULD THEN BE APPEALED TO EUROPEAN COURT IN LUXEMBOURG. PAST DECISION OF TARIFF COMMISSION DATED JUNE 28, 1973, WAS NOT APPEALED BY DOORNOS' FORMER LEGAL REPRESENTATIVES', AND TIME PERIOD FOR APPEAL HAS PASSED. IN THIS REGARD, LAWYER ALSO STATED THAT MINISTRY OF FINANCE'S AUGUST 31, 1973 REPLY TO EMBASSY'S AIDE MEMORIE OF JUNE 18, 1973 (WHICH WAS ENCLOSED IN REFAIR) IS INCORRECT AND THAT APPEAL TO EUROPEAN COURT MENTIONED THIRD PARAGRAPH NOT ONLY POSSIBLE BUT WOULD BE PROPER COURSE OF ACTION. LAWYER ALSO POINTED OUT TO DOORNBOS RISK THAT IF EUROPEAN COURT'S DECISION ADVERSE, AS IT WELL MIGHT BE, IT COULD RESULT IN UNIFORM POLICY THROUGHOUT EC OF CLASSIFYING ALL CRAWLER LIFTING CRANES UNDER 84.23 A.I. MR. DOONBOS SEEMED IN FAVOR OF TAKING THAT CHANCE, ALTHOUGH HE STILL IS IMPORTING CRAWLER LIFTING CRANES UNDER 84.22 D.I.A. (LOWER TARIFF) THROUGH ANTWERP. HIS ASSUMPTION IS THAT THIS DOOR WILL BE CLOSED SOON AS RESULT
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 THE HA 01904 171204Z

OF WHAT HE UNDERSTANDS ARE EFFORTS BY DUTCH CUSTOMS AUTHORITIES TO REFER CASE TO EC. MR. DOORNBOS SAID HE WOULD MAKE KNOWN THESE VIEWS TO AMERICAN HOIST IN ST. PAUL DURING HIS VISIT THERE, APRIL 15 THOUGH 25, 1974.

3. EMBOFF WAS SHOWN LETTER FROM AMERICAN HOIST TO DOORNBOS DATED OCTOBER 1973, WHICH STATED THAT AMERICAN HOIST WAS OPPOSED TO ANY ACTION BY DOORNBOS THAT MIGHT LEAD TO CASE BEING BROUGHT

TO ATTENTION OF EC AUTHORITIES, AND NOTED THAT USDOC IS AWARE
OF AMERICAN HOISTS POSITION.

FOR USDOC

4. SINCE DOORNBOS INDICATED INTEREST IN CONTACTING EMBASSY FOR
ADVISE AFTER RETURN FROM ST. PAUL, WE WOULD APPRECIATE BEING
INFORMED OF PRESENT STATUS OF CASE.

GOULD

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 17 APR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974THEHA01904
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740088-0941
From: THE HAGUE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740435/aaaabfcn.tel
Line Count: 123
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION COME
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: THE HAGUE A-182 OF SEPT. 14, 1973 AN, D PREVIOUS
Review Action: RELEASED, APPROVED
Review Authority: WorrelSW
Review Comment: n/a
Review Content Flags:
Review Date: 05 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 SEP 2002 by BryanSD>; APPROVED <23 DEC 2002 by WorrelSW>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: AMERICAN HOIST AND DERRICK CO. TARIFF CLASSIFICATION PROBLEM
TAGS: BEXP, NL
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005